

REMARKS:

The claims in the application are 1-14, 16, 17, 19, 20 and Claims 21 and 22 added by the present amendment.

Favorable reconsideration of the application as amended is respectfully requested.

Claims 15 and 18 have been canceled without prejudice, thereby eliminating the objection to the drawings and specification raised in paragraphs 3 and 4 on pages 2-3 of the Office Action. The amendment to independent Claim 1 and Claims 21 and 22 find support throughout the present application and drawings, e.g., page 2, lines 6-19, page 4, line 15-page 5, line 5, page 7, lines 10-18 and Figs. 1-5. Accordingly, the only outstanding issue is the art rejection of the claims.

Claims 1 and 10-12 have been rejected under 35 U.S.C. §102 as being anticipated by U.S. Pat. No. 6,170,651 to Taormina in paragraph 6 on pages 3-4 of the Office Action, while Claims 8 and 9 have been rejected under 35 U.S.C. §103 as obvious over this reference in paragraph 2[sic] on pages 4-5 of the Office Action and Claims 2, 4-7 and 13-20 rejected as obvious additionally in view of U.S. Pat. Pub. No. 2003/0201265 to Lin in paragraph 6[sic] on pages 5-6 of the Office Action. However, it is respectfully submitted the present invention as recited in all pending claims herein is patentable over this art, for the following reasons (reference will be made to preferred embodiments of the present invention illustrated in the drawings of the present application).

The present invention explicitly provides an eyeglass case 1 in which contents, i.e., eyeglasses, can be removed in a single step by the same

hand. To this end, the inventive eyeglass case 1 comprises an upper cover 2, a lower cover 3, a button 4 secured to the upper cover 2, and a rotating member 6 secured to a contact portion between the upper and lower covers 2,3. More explicitly, the rotating member 6 is arranged on the eyeglass case 1 such that when the button 3 is pushed for release, a spring, rotor or vane 8 in the rotating member 6 moves to slowly open the upper cover 2 upwardly away from the lower cover 3 and allow contents within the case 1 to be removed in a single step by the same hand or member depressing the button 4.

In a preferred embodiment, the rotating member 6 has a support spindle 7 for the spring 8 and outer housing for containing the support spindle 7, with oil 9 being sealed within the support spindle 7 (Claim 2); preferably, the oil 9 is positioned throughout an interior of the rotating member 6, and about the spring, vane or rotor 8 positioned therewithin (Claim 22).

The features of the presently claimed invention together with the accompanying advantages attained thereby, are neither disclosed nor suggested by the applied art, for the following reasons.

Taormina discloses an eyeglass container 10 having a cylindrical shape (i.e., not an oblong shape as recited, e.g., in Claim 21) and designed to contain a multiple of items, e.g., eyeglasses 24 and a tube 58 of cleaning solution which is removed from the end 32 of the case body 12 opposite the end 22 from which the eyeglasses 24 are removed (Figs. 1 and 2). Accordingly, unlike the presently claimed invention, it is not possible in Taormina to both open the eyeglass case 12 and remove the eyeglasses 24 in a single step and with the same hand; the eyeglass case 12 in Taormina must either be placed on a

surface or held by the other hand after opening, to remove the eyeglasses 24. By the same token, inserting the eyeglasses 24 back into the case 12 in Taormina cannot be accomplished in a single step with just one hand.

In the second full paragraph on page 4 of the Office Action, it is asserted all the structural elements and functions recited in Claims 1 and 10-12 are *presumed* to be *inherently* shown in Taormina. However, to constitute an anticipatory rejection, inherency must be absolutely certain and not a mere possibility. In the present instance, it is unequivocally clear the device shown in Taormina cannot function in the same manner as the presently claimed invention, so the *inherency* argument must fall and Taormina fails to anticipate these claims. With respect to the obviousness rejection of Claims 8 and 9 over Taormina, notably the comment in the first full paragraph on page 5 of the Office Action, it is respectfully pointed out criticality of the explicitly claimed arrangement has indeed been shown to permit opening of the eyeglass case 1 in a single step with just a single, e.g., the same hand. Therefore, Taormina also fails to render obvious the invention recited in any pending claim.

Concerning the rejection of Claims 2, 4-7 and 13-20 additionally in view of Lin, this patent publication just discloses oil being positioned between internal 31 and external 32 tubes of slow pivot element 30 to damp rotation of cover 20 on garbage bin 1 (page 2, column 2, paragraph [0041]). There is no suggestion of arranging this pivoting mechanism of Lin on an eyeglass case. Accordingly, the only teaching of arranging components in the manner of Claims 2, 4-7 and 13-20 can be found in the present application itself, so any combination of Taormina and Lin, at most, constitutes improper hindsight

reconstruction in light of the disclosure in the present application.

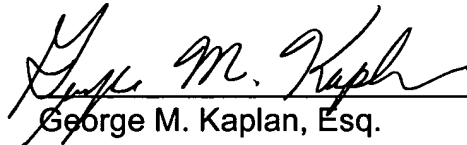
Furthermore, as pointed out *supra*, Lin discloses oil situated between inner and outer tubes 31, 32 and fails to teach presence of oil 9 throughout an interior of a rotating member 6 and about the spring, rotor or vane 8 positioned therewithin (please see, e.g., Claim 22). Accordingly, Lin fails to add anything to Taormina which would render obvious the invention recited in any claim.

The remaining art of record has not been applied against the claims and will not be commented upon further.

Accordingly, in view of the forgoing amendment and accompanying remarks, it is respectfully submitted all claims pending herein are in condition for allowance. Please contact the undersigned attorney should there be any questions. A petition for an automatic three month extension of time for response under 37 C.F.R. §1.136(a) is enclosed in triplicate, together with the requisite petition fee.

Early favorable action is earnestly solicited.

Respectfully submitted,

  
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